

REMARKS

By the above amendment, claim 1 has been amended to incorporate features of dependent claim 21 therein as well as to more clearly recite features as illustrated in the elected species shown in Fig. 1. That is, claim 1 has been amended to recite the feature, as illustrated in Fig. 1, that the cathode film (CD) is arranged so as to cover the display area (AR) and the at least one driving circuit (DR), which feature has been previously recited in dependent claim 21, which has been amended accordingly. Furthermore, claim 1 has been amended to recite the feature that the moisture absorbent layer, (DCT) as shown in Fig. 1, is arranged so as to cover substantially all of the display area (AR).

As to the rejection of claim 1 under 35 USC 103(a) as being unpatentable over Ogura et al (US 6,924,594) in view of Su (6,628,071), the rejection of claims 2 - 8 and 21 under 35 USC 103(a) as being unpatentable over Ogura et al (US 6,924,594) in view of Su (6,628,071) and further in view of Yamada et al (US 6,833,668); and the rejection of claim 3 under 35 USC 103(a) as being unpatentable over Ogura et al (US 6,924,594) in view of Su (6,628,071) in view of Yamada et al (US 6,833,668) as applied to claim 21, above, and further in view of Yamazaki et al (US 6,952,023), such rejections are traversed insofar as they are applicable to the present claims and reconsideration and withdrawal of the rejections are respectfully requested.

As to the requirements to support a rejection under 35 USC 103, reference is made to the decision of In re Fine, 5 USPQ 2d 1596 (Fed. Cir. 1988), wherein the court pointed out that the PTO has the burden under '103 to establish a prima facie case of obviousness and can satisfy this burden only by showing some objective teaching in the prior art or that knowledge generally available to one of ordinary skill

in the art would lead that individual to combine the relevant teachings of the references. As noted by the court, whether a particular combination might be "obvious to try" is not a legitimate test of patentability and obviousness cannot be established by combining the teachings of the prior art to produce the claimed invention, absent some teaching or suggestion supporting the combination. As further noted by the court, one cannot use hindsight reconstruction to pick and choose among isolated disclosures in the prior art to deprecate the claimed invention.

In applying the cited art to the claimed invention, the Examiner indicates that Ogura et al teaches a display device having a first substrate (810) and a second substrate (804) in which the first substrate has a display area (802), and the first substrate has a cathode film (817) that is commonly used for the respective light emitting elements of the plurality of pixels and also covers a driving circuit (803). The Examiner indicates "Ogura et al do not specifically teach the second substrate having a recess portion ... Su teaches the second substrate of a similar display device can be made to have such a recess portion within the seal area of the second substrate in order to accommodate a moisture absorbent layer such that the thickness of the display device can be reduced (see col. 2, lines 37-40). Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include a recess in the second substrate with a moisture absorbent layer provided therein in order to reduce the thickness of the display device." Applicants submit that the Examiner has engaged in a hindsight reconstruction attempt utilizing the principle of "obvious to try" which is not the standard of 35 USC 103. See In re Fine, supra.

Turning to Ogura et al, while this patent discloses a cathode film (817) which covers the display area (802) and the driving circuit (803), Ogura et al specifically discloses, as illustrated in Fig. 8(B) and described at column 18, lines 11 - 19:

A barrier film 819 and an absorption film 820 are formed next in succession so as to cover the EL element 818. Note that the barrier film 819 formed here is formed in order to avoid oxygen and moisture absorbed by the absorption film 820 coming into direct contact with the cathode 817. In addition, it is also formed in order to prevent direct contact pressure from being applied to the EL element 818 by weight developing by oxygen and moisture absorbed by the absorption film 820. (emphasis added).

Thus, Ogura et al specifically discloses the provision of a moisture absorption film provided on the first substrate together with the cathode film provided on the first substrate. As to the second substrate 804 of Ogura et al, such substrate is disclosed as a planar substrate without a recess, and it is not seen that the provision of a recess would result in the thickness of the display device being reduced, in light of the disclosed structural arrangement of the first substrate of Ogura et al, irrespective of the contentions by the Examiner. It is noted that the moisture absorption film 820 in Ogura apparently covers substantially all of the display area 802 thereof.

Turning to Su, while this patent discloses a substrate with a recess portion and a moisture absorption layer 206 provided in the recess area, Su does not disclose the provision of a cathode film provided on a first substrate, arranged in the manner defined, and specifically notes in column 3, lines 2 - 5 "it is appreciated that the absorbent 206 and the recess 204a for accommodating the absorbent 206 are not absolutely necessary for the present invention." (emphasis added). In light of this disclosure and teaching in Su, it is readily apparent that it cannot be considered obvious, in the sense of 35 USC 103, to provide a moisture absorbent layer in a recess portion of a second substrate in Ogura et al, since Ogura et al specifically discloses the utilization of a moisture absorbent layer on the first substrate. That is

the modification proposed by the Examiner would result in moisture absorbing layers on both the first and second substrates which is unnecessary. Additionally Su recognizes that a moisture absorbent layer on the second substrate is not necessary. Further, applicants submit that the proposed combination is contrary to the teachings of Ogura et al. Thus, applicants submit that the Examiner has engaged in a hindsight reconstruction attempt in complete disregard of the teachings of Ogura et al in attempting to reconstruct the present invention utilizing the principle of "obvious to try". As such, applicants submit that claim 1 and the dependent claims patentably distinguish over Ogura et al in the sense of Ogura et al taken alone or in combination with Su in the sense of 35 USC 103 and all claims should be considered allowable thereover.

With respect to the addition of Yamada et al to the combination of Ogura et al and Su, the Examiner recognizes that the combination of Ogura et al and Su does not specifically teach that the cathode film (817) which extends beyond the display area (802) and covers the driving circuit (803) has a light shielding property. Irrespective of the disclosure of Yamada et al regarding a light shielding property, applicants note that Yamada et al may be considered to correspond to Su in relation to the provision of a moisture absorption layer in the form of a desiccant sheet 13 disposed on the inner surface of a second substrate 10. Thus, hereagain, applicants submit that the provision of a moisture absorption layer on a second substrate is contrary to the disclosure and teaching of Ogura et al such that the proposed combination represents further evidence of a hindsight reconstruction attempt of the present invention utilizing the principle of "obvious to try" which is not the standard of 35 USC 103. Accordingly, applicants submit that all claims present in this

application patentably distinguish over the cited art in the sense of 35 USC 103 and should be considered allowable thereover.

With regard to the addition of Yamazaki et al (US 6,952,023) the Examiner contends that this patent teaches a light-shielding cathode layer formed by laminating two conductive films, referring to column 31, lines 6 - 10. Applicants note that Yamazaki et al has a common assignee with Ogura et al, and like Ogura et al discloses in column 31, lines 22 - 29 that a protective film 4209 is formed so as to cover the light emitting element 4303, which protective film 4209 is effective in preventing oxygen, moisture and the like from permeating the light emitting element 4303. Thus, Yamazaki et al is considered to disclose, like Ogura et al, the provision of a moisture absorption layer together with the cathode film, provided on the first substrate. Thus, applicants submit that the further combination with Yamazaki et al fails to provide the claimed features of claim 3, when considered in conjunction with the other cited art in the sense of 35 USC 103 and claim 3 should also be considered allowable at this time.

In view of the above amendments and remarks, applicants submit that all claims under consideration in this application, i.e., claims 1 - 8 and 21, patentably distinguish over the cited art and should now be in condition for allowance. Accordingly, issuance of an action of a favorable nature is courteously solicited.

To the extent necessary, applicants petition for an extension of time under 37 CFR 1.136. Please charge any shortage in the fees due in connection with the filing of this paper, including extension of time fees, to the deposit account of Antonelli,

Terry, Stout & Kraus, LLP, Deposit Account No. 01-2135 (Case: 501.43190X00),
and please credit any excess fees to such deposit account.

Respectfully submitted,

ANTONELLI, TERRY, STOUT & KRAUS, LLP

A handwritten signature in cursive script, appearing to read "Melvin Kraus", is written above a horizontal line.

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